IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9373 of 2004

Between:

R.Sunethi Reddy, W/o. Late R.Ramdev Reddy, 65 years,
Resident of H.No.8-2-616/A11, Road No.11, Banjara Hills, Hyderabad.

...PETITIONER

AND

The Mandal Revenue Officer, Shaikpet Mandal, Hyderabad District.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the proceedings No. E/5843/2003 dated 13.04.2004 and served on 27.05.2004 as illegal, arbitrary and one without jurisdiction.

COUNSEL FOR THE PETITIONER: MR.O.MANOHER REDDY

COUNSEL FOR THE RESPONDENT: GP FOR REVENUE

The Court made the following:

-

-

-

-

-

-

-

-

-

ORDER:

The petitioner claims to have purchased a plot of land admeasuring 1608 square yards in Survey No.129/69 of Shaikpet Village in the year 1981, where after the petitioner allegedly constructed a house and staying there in. The respondent issued a notice, dated 02.12.2003 under Section 7 of the A.P.Land Encroachment Act, 1905 ('the Act' for brevity) calling upon the petitioner to remove the encroachment on the ground that the land under occupation is Government land in survey No.403. The petitioner submitted explanation on 21.12.2003 explaining her title and possession of the property. Nonetheless the respondent passed impugned order being Proceedings No.E/5843/2003, dated 13.04.2004 calling upon the petitioner to vacate the land within 48 hours from the date of receipt of the order, otherwise steps will be taken to evict her from the alleged occupation of the encroached land.

This Court while admitting the Writ Petition suspended the impugned order for a period of two months. As the interim order is expiring, the learned counsel for the petitioner moved this Court for extension of the interim orders. At that stage itself, the matter was heard. Learned counsel for the petitioner, Sri O.Manoher Reddy placed strong reliance on G.O.Ms.No.387 MA dated 21.04.1981 and a letter of the Special Officer of the Municipal Corporation of Hyderabad (for short 'the Corporation') dated 11.08.1981 addressed to the Assistant City Planner, Circle No.V of the Corporation, whereby and whereunder, the Corporation granted permission for construction of the house.

A perusal of these two would however show that the land, which is covered in these two documents, cannot be straight away correlated to the land in possession of the petitioner covered by Municipal No.8-2-616/A/1, Road No.11, Banjara Hills. It is a question of fact to be verified with reference to the documentary evidence. Further, the impugned order is passed under Section 6 of the Act against which an appeal lies to the Revenue Divisional Officer under Section 10 of the said Act, which also provides further appeal to the District Collector. As the matter involves verification of title deeds, Revenue records and the like, it would be better if an opportunity is given to the petitioner to approach proper appellate authority within a period of four weeks from the date of receipt of a copy of this order. It shall also be open to the petitioner to obtain appropriate interim orders pending appeal. There shall be *status quo* as on today for a period of eight (8) weeks. The appellate authority shall decide the matter without in any manner influenced by the

observations made herein above.

The Writ Petition is accordingly disposed of.

_____

(V.V.S.RAO, J)

30th July 2004

RRB

Copies To:

1. The Mandal Revenue Officer, Shaikpet Mandal, Hyderabad District.
2. Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT).
3. Two CD copies.